

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-368-S - ORDER NO. 2004-190
APRIL 13, 2004

IN RE: Application of Madera Utilities, Inc. for Approval) ORDER SETTING
of an Increase in its Sewer Rates and Charges) NIGHT HEARING

On December 11, 2003, the Public Service Commission of South Carolina ("Commission") received for filing an Application seeking a rate increase from Madera Utilities, Inc. ("Madera"). Following public notice of Madera's Application, a petition in opposition to Madera's Application was filed by certain residents of Heatherwood Subdivision which is served by Madera. By the petition filed with Commission on February 24, 2004, the residents of Heatherwood request the Commission (1) not to approve the new rates requested by Madera, (2) to hold the hearing in this matter in Clemson, South Carolina instead of Columbia, and (3) to advise the City of Clemson to seek a solution that is in the best interests of the residents of Heatherwood. Thereafter, on March 17, 2004, the Commission received a letter from the Honorable B.R. Skelton, member of the South Carolina House of Representatives from District No. 3, in which Representative Skelton requested that a public hearing be held in the Clemson area so that residents affected by Madera's rate Application could be present to express their opinions related to the Application. The requests raised in the petition and Representative Skelton's letter are before the Commission for action.

Upon consideration of the petition and Representative Skelton's letter, the Commission finds that a night hearing in this docket should be scheduled and held in the Clemson area. A night hearing will allow interested customers of Madera to appear and present testimony and evidence relevant to Madera's Application. The night hearing shall be scheduled in addition to the public hearing scheduled to be held in Columbia. The night hearing is being scheduled to provide a local forum for customers of Madera and other interested persons not already parties to the proceeding. Parties of record in this docket, who have filed Petitions to Intervene and who seek to cross-examine witnesses of Madera, will present their testimony and exhibits at the hearing scheduled for Columbia. Further, Madera and the Staff will present their witnesses and testimony and exhibits at the hearing scheduled to be held before the Commission in Columbia.

With regard to the request in the petition from certain residents of Heatherwood Subdivision that the Commission not approve the rate increase sought by the Application, the Commission denies that request. The Commission finds that the Commission must rule on the case based upon the evidence of record presented in the hearings. After receiving evidence in this case, the Commission will then consider all relevant evidence and base its decision upon the evidence of record from the proceeding.

The petition also requested that the Commission "advise the City of Clemson to seek a solution that is best for the citizens residing in Heatherwood." (Petition, paragraph 3.) The Commission finds that it has no jurisdiction to do what is requested of it, and the Commission denies this request. By statute, the Commission has no jurisdiction over municipalities or municipal utilities. See, S.C. Code Ann. Section 58-5-30 (Supp. 2003)

(“... nothing contained in Articles 1, 3, and 5 of this chapter shall give the Commission any power to regulate or interfere with public utilities owned or operated by or on behalf of any municipality ...”) Therefore, the Commission cannot “advise” or order the City of Clemson to act in any manner with regard to the provision of sewer services or to provide any utility services to any persons or subdivision.

IT IS THEREFORE ORDERED THAT:

1. A night hearing shall be scheduled to be held in the Clemson area so that interested customers of Madera will have a local forum where those customers may present relevant testimony and evidence regarding Madera’s Application for a rate increase.
2. The night hearing shall be scheduled for Monday, April 26, 2004, at 7:00 PM and shall be held at the First Baptist Church on College Avenue in Clemson, South Carolina.
3. The request to deny the rate increase, as contained in the petition from certain residents of Heatherwood Subdivision, is denied.

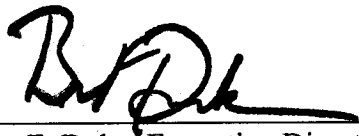
4. The request, as contained in the petition from certain residents of Heatherwood Subdivision, that the Commission “advise the City of Clemson to seek a solution that is best for the citizens residing in Heatherwood” is denied.

BY ORDER OF THE COMMISSION:



Mignon L. Clyburn, Chairman

ATTEST:



Bruce F. Duke, Executive Director

(SEAL)